

**HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

WRIT PETITION No.19539 of 2015

ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

This writ petition is filed by the petitioner seeking *Mandamus* to declare the action of the respondents-Bank in not considering the petitioner's representation dated 22.6.2015 as arbitrary and illegal, and consequently sought a direction to the respondent-Bank to consider the said representation as per Section 13(4)(b) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act").

2. The petitioner company has borrowed certain amount towards loan from the respondent-Bank. In view of the default committed by the petitioner company in repaying the loan amount, the respondent-Bank has initiated proceedings and issued a notice dated 12.03.2015 under Section 13(2) of the SARFAESI Act demanding to pay Rs.94,34,16,695-05 ps. On receipt of such notice, the petitioner company has filed a representation dated 8.5.2015 under Section 13(3A) of the SARFAESI Act, requesting to withdraw the said notice and to allow operations in the accounts and also to appoint a consultant for undertaking a Techno-Economic Viability Study to establish the long term viability and subject to viability, the

Bank may consider for extending a restructuring package. As the said representation was not considered, the petitioner company has filed W.P.No.16825 of 2015 and this Court disposed of the said writ petition by order dated 15.6.2015 directing to consider the said representation filed under Section 13(3A) of the SARFAESI Act. Pursuant to the said directions, the said representation was already disposed of. When further steps were taken by the respondent-Bank for recovery of loan amount, the petitioner company has made another representation dated 22.6.2015. The present writ petition is filed to declare the action of the respondent-Bank in not considering the said representation, as arbitrary and illegal.

3. A counter affidavit is filed on behalf of the respondent-Bank. While denying various averments of the petitioner, the respondent, in clear terms, has stated that after receipt of the representation dated 22.6.2015 and another representation dated 24.6.2015, the respondent has replied vide letter dated 29.6.2015 rejecting the request of the petitioner. It is further stated that all the grounds raised in the said representations are untenable and not acceptable to the Bank.

4. Heard learned counsel for the parties and perused the counter affidavit along with the material.

5. In view of the specific stand taken by the respondent-Bank that the representation of the petitioner has already been considered and rejected, the petitioner is not entitled for the

relief sought for in this writ petition.

6. For the aforesaid reasons, this writ petition is devoid of merits and is accordingly dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

15.07.2015.

Msr

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